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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,609	12/26/2000	Gerald R. Stanley	CRI0033.1	4249

27879 7590 07/01/2004

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EXAMINER
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CUNNINGHAM, TERRY D

ART UNIT	PAPER NUMBER
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2816

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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09/748609

EXAMINER

ART UNIT

PAPER

06282004

DATE MAILED:

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## Commissioner for Patents

This letter is in response to Applicant's request to reinstate the Appeal dated 30 April 2004. Appellant's accusation that the added new matter "affects the claims" is clearly unwarranted. In fact, Examiner contends that if the addition of Fig. 6 did affect the claims, then this, in itself, would be evidence that such is in fact new matter. Since there was no rejection on the merit made with respect to Fig. 6, the corresponding objection is not Appealable subject matter.

The letter filed 30 April 2004 is instead hereby being treated as a request for reconsideration. This request for reconsideration has been fully considered, along with the remaining record of the case. Conclusion of such reconsideration are as follows:

The new matter objection with respect to Fig. 6 has been reconsidered. Examiner still contends that one skilled in the art would have considered the portion of the summary of the invention relied upon by Applicant as being a concise explanation of the main embodiment of Fig. 5. Nonetheless, one skilled in the art would view Fig. 6 as being nothing more than a diagrammatic representation of the circuit recited in claims 9-12. Thus, the new objection is hereby removed.

With respect to the enablement of Fig. 6, mentioned previously, while it is not clear for the record as to whether one skilled in the art can make an use the circuit shown therein without "undue experimentation", Examiner finds no express evidence to show otherwise. Examiner does point out that the purpose of element 44 of Fig. 5 is to provide a control signal to control operation between the input (In) and the output (Out) of the "Filter". Since the circuit of Fig. 5 does not have such a "Filter", it is not clear what the purpose of element 44 is.

With respect to the outstanding indefiniteness rejection to claims 1-6 and 9-21, this rejection was inadvertently maintained in the previous rejection, however, Examiner has already provided for the record how one skilled in the art would interpret this claim language using broadest reasonable interpretation. With such an interpretation, the phrase would be deemed to be definite.

With respect to the enablement rejection to claims 9-12 as lacking "critical feature", Examiner contends that these claims fail to lack "critical feature" insofar as Fig. 6 is enabled.

Therefore, the Appeal is hereby reinstated with the remaining issue in this case being whether or not claims 1, 2, 4, 5, 13-18, 20 and 21 are unpatentable under 35 U.S.C. § 103 by of Cavigelli in view of Applicant's prior art Fig. 1.


The status of the claims are as follows:

Claims 6 and 9-12 are allowed.

Claims 1, 2, 4, 5, 13-18, 20 and 21 are rejected.

Claims 3 and 19 are objected to.

The Examiner's Answer will be mailed subsequent to the mailing of this letter.

  
Terry D. Cunningham  
Primary Examiner  
Art Unit: 2816